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AMENDED IN SENATE FEBRUARY 18, 2010
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AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1443

Introduced by Assembly Member Huffman
*(Coauthors: Assembly Members Adams, Jeffries, Portantino, Saldana,
and Smyth)*
(Coauthor: Senator Price)

February 27, 2009

An act to add Section 68152.5 to the Government Code, and to amend Sections 23217, 23540, 23546, 23550, 23550.5, 23560, and 23566 of, and to add Section 23595 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1443, as amended, Huffman. Vehicles: driving under the influence: repeat offenders.

(1) Existing law authorizes the trial court clerk to destroy court records after notice of destruction and if there is no request and order for transfer of the records, except for specified records, when specified times have expired after the final disposition of the case in the categories listed.

This bill would require the trial court clerk to adopt procedures to ensure that records of convictions for driving under the influence of alcohol or drugs are retained permanently.

~~Existing~~

(2) *Existing* law requires, if a person is convicted of a specified driving under the influence (DUI) offense and the offense occurred within 10 years of 2, or 3 or more prior specified DUI offenses that resulted in a conviction, that the person be punished by enhanced penalties, and that the person's privilege to operate a motor vehicle be revoked by the department for a period of 2, 3, 4, or 5 years, as applicable.

This bill would delete the 10-year limitation.

~~Existing~~

(3) *Existing* law authorizes the court to impose specified additional orders on a person when the person is convicted of a DUI offense, depending on the circumstances.

This bill would authorize the court to order the permanent revocation of the driver's license of a person who was previously convicted of 3 or more specified DUI offenses if the court considers 5 factors, including, but not limited to, the period of time that has elapsed since his or her previous DUI convictions. The bill would require the court to permanently revoke the driver's license of a person who was previously convicted of 5 or more specified DUI offenses.

The bill would require that a person whose driver's license is permanently revoked by a court under these provisions forfeit his or her vehicle to the state or forfeit any interest in the vehicle, if specified provisions apply and would prohibit that person from registering or owning a vehicle in this state. The bill would prohibit a person in this state from selling, leasing, or lending a vehicle to that person. The bill would also require the Department of Motor Vehicles to establish a database of persons whose driver's license has been permanently revoked by a court under these provisions.

The bill would also authorize a person whose driver's license was permanently revoked by a court because of 3 or 4 separate DUI offenses to apply to the Department of Motor Vehicles for the reinstatement of his or her privilege to drive after a period of 3 years from the date of his or her last conviction if the person successfully completes a written test and driving test for the license classification and a specified alcohol treatment program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *This act shall be known, and may be cited, as*
2 *“Melody’s Law.”*

3 SEC. 2. *Section 68152.5 is added to the Government Code, to*
4 *read:*

5 68152.5. *Notwithstanding Section 68152, the trial court clerk*
6 *shall adopt procedures to ensure that the records of convictions*
7 *for driving under the influence of alcohol or drugs are retained*
8 *permanently, including, but not limited to, convictions pursuant*
9 *to Section 23103, as specified in Section 23103.5, and Sections*
10 *23152 and 23153, of the Vehicle Code, and subdivisions (a) or (b)*
11 *of Section 191.5, paragraph (1) of subdivision (c) of Section 192,*
12 *and subdivision (a) of Section 192.5, of the Penal Code.*

13 ~~SECTION 1.~~

14 SEC. 3. *Section 23217 of the Vehicle Code is amended to read:*

15 23217. *The Legislature finds and declares that some repeat*
16 *offenders of the prohibition against driving under the influence of*
17 *alcohol or drugs, when they are addicted or when they have too*
18 *much alcohol in their systems, may be escaping the intent of the*
19 *Legislature to punish the offender with progressively greater*
20 *severity if the offense is repeated one or more times. This situation*
21 *may occur when a conviction for a subsequent offense occurs*
22 *before a conviction is obtained on an earlier offense.*

23 *The Legislature further finds and declares that the timing of*
24 *court proceedings should not permit a person to avoid aggravated*
25 *mandatory minimum penalties for multiple separate offenses. It*
26 *is the intent of the Legislature to provide that a person be subject*
27 *to enhanced mandatory minimum penalties for multiple offenses,*
28 *regardless of when the convictions for those offenses were*
29 *obtained.*

30 *Nothing in this section requires consideration of judgment of*
31 *conviction in a separate proceeding that is entered after the*
32 *judgment in the present proceeding, except as it relates to violation*
33 *of probation.*

34 *Nothing in this section or the amendments to Section 23540,*
35 *23546, 23550, 23560, 23566, 23622, or 23640 made by Chapter*

1 1205 of the Statutes of 1984 affects the penalty for a violation of
2 Section 23152 or 23153 occurring prior to January 1, 1985.

3 ~~SEC. 2.~~

4 *SEC. 4.* Section 23540 of the Vehicle Code is amended to read:

5 23540. (a) If a person is convicted of a violation of Section
6 23152 and the person was previously convicted of a separate
7 violation of Section 23103, as specified in Section 23103.5, 23152,
8 or 23153, that resulted in a conviction, that person shall be
9 punished by imprisonment in the county jail for not less than 90
10 days nor more than one year and by a fine of not less than three
11 hundred ninety dollars (\$390) nor more than one thousand dollars
12 (\$1,000). The person's privilege to operate a motor vehicle shall
13 be suspended by the department pursuant to paragraph (3) of
14 subdivision (a) of Section 13352. The court shall require the person
15 to surrender the driver's license to the court in accordance with
16 Section 13550.

17 (b) Whenever, when considering the circumstances taken as a
18 whole, the court determines that the person punished under this
19 section would present a traffic safety or public safety risk if
20 authorized to operate a motor vehicle during the period of
21 suspension imposed under paragraph (3) of subdivision (a) of
22 Section 13352, the court may disallow the issuance of a restricted
23 driver's license required under Section 13352.5.

24 ~~SEC. 3.~~

25 *SEC. 5.* Section 23546 of the Vehicle Code is amended to read:

26 23546. (a) If a person is convicted of a violation of Section
27 23152 and the person was previously convicted of two separate
28 violations of Section 23103, as specified in Section 23103.5, 23152,
29 or 23153, or any combination thereof, that resulted in convictions,
30 that person shall be punished by imprisonment in the county jail
31 for not less than 120 days nor more than one year and by a fine of
32 not less than three hundred ninety dollars (\$390) nor more than
33 one thousand dollars (\$1,000). The person's privilege to operate
34 a motor vehicle shall be revoked by the Department of Motor
35 Vehicles as required in paragraph (5) of subdivision (a) of Section
36 13352. The court shall require the person to surrender his or her
37 driver's license to the court in accordance with Section 13550.

38 (b) A person convicted of a violation of Section 23152
39 punishable under this section shall be designated as a habitual
40 traffic offender for a period of three years, subsequent to the

1 conviction. The person shall be advised of this designation pursuant
2 to subdivision (b) of Section 13350.

3 ~~SEC. 4.~~

4 *SEC. 6.* Section 23550 of the Vehicle Code is amended to read:

5 23550. (a) If a person is convicted of a violation of Section
6 23152 and the person was previously convicted of three or more
7 separate violations of Section 23103, as specified in Section
8 23103.5, or Section 23152 or 23153, or any combination thereof,
9 that resulted in convictions, that person shall be punished by
10 imprisonment in the state prison, or in a county jail for not less
11 than 180 days nor more than one year, and by a fine of not less
12 than three hundred ninety dollars (\$390) nor more than one
13 thousand dollars (\$1,000). The person's privilege to operate a
14 motor vehicle shall be revoked by the Department of Motor
15 Vehicles pursuant to paragraph (9) of subdivision (a) of Section
16 13352. The court shall require the person to surrender the driver's
17 license to the court in accordance with Section 13550.

18 (b) A person convicted of a violation of Section 23152
19 punishable under this section shall be designated as a habitual
20 traffic offender for a period of three years, subsequent to the
21 conviction. The person shall be advised of this designation pursuant
22 to subdivision (b) of Section 13350.

23 ~~SEC. 5.~~

24 *SEC. 7.* Section 23550.5 of the Vehicle Code is amended to
25 read:

26 23550.5. (a) A person is guilty of a public offense, punishable
27 by imprisonment in the state prison or confinement in a county
28 jail for not more than one year and by a fine of not less than three
29 hundred ninety dollars (\$390) nor more than one thousand dollars
30 (\$1,000) if that person is convicted of a violation of Section 23152
31 or 23153, and the person was previously convicted of any of the
32 following:

33 (1) A prior violation of Section 23152 that was punished as a
34 felony under Section 23550 or this section, or both, or under former
35 Section 23175 or former Section 23175.5, or both.

36 (2) A prior violation of Section 23153 that was punished as a
37 felony.

38 (3) A prior violation of paragraph (1) of subdivision (c) of
39 Section 192 of the Penal Code that was punished as a felony.

(b) Each person who, having previously been convicted of a violation of subdivision (a) of Section 191.5 of the Penal Code, a felony violation of subdivision (b) of Section 191.5, or a violation of subdivision (a) of Section 192.5 of the Penal Code, is subsequently convicted of a violation of Section 23152 or 23153 is guilty of a public offense punishable by imprisonment in the state prison or confinement in a county jail for not more than one year and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000).

(c) The privilege to operate a motor vehicle of a person convicted of a violation that is punishable under subdivision (a) or (b) shall be revoked by the department under paragraph (9) of subdivision (a) of Section 13352, unless paragraph (8) of subdivision (a) of Section 13352 is also applicable, in which case the privilege shall be revoked under that provision. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(d) A person convicted of a violation of Section 23152 or 23153 that is punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation under subdivision (b) of Section 13350.

~~SEC. 6.~~

SEC. 8. Section 23560 of the Vehicle Code is amended to read:
23560. If a person is convicted of a violation of Section 23153 and the person was previously convicted of a separate violation of Section 23103, as specified in Section 23103.5, 23152, or 23153 that resulted in a conviction, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred ninety dollars (\$390) nor more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

~~SEC. 7.~~

SEC. 9. Section 23566 of the Vehicle Code is amended to read:
23566. (a) If a person is convicted of a violation of Section 23153 and the person was previously convicted of two or more

1 separate violations of Section 23103, as specified in Section
2 23103.5, or Section 23152 or 23153, or any combination of these
3 violations, that resulted in convictions, that person shall be
4 punished by imprisonment in the state prison for a term of two,
5 three, or four years and by a fine of not less than one thousand
6 fifteen dollars (\$1,015) nor more than five thousand dollars
7 (\$5,000). The person's privilege to operate a motor vehicle shall
8 be revoked by the Department of Motor Vehicles pursuant to
9 paragraph (8) of subdivision (a) of Section 13352. The court shall
10 require the person to surrender the driver's license to the court in
11 accordance with Section 13550.

12 (b) If a person is convicted of a violation of Section 23153, and
13 the act or neglect proximately causes great bodily injury, as defined
14 in Section 12022.7 of the Penal Code, to any person other than the
15 driver, and the person was previously convicted of two or more
16 separate violations of Section 23103, as specified in Section
17 23103.5, or Section 23152 or 23153, or any combination of these
18 violations, that resulted in convictions, that person shall be
19 punished by imprisonment in the state prison for a term of two,
20 three, or four years and by a fine of not less than one thousand
21 fifteen dollars (\$1,015) nor more than five thousand dollars
22 (\$5,000). The person's privilege to operate a motor vehicle shall
23 be revoked by the Department of Motor Vehicles pursuant to
24 paragraph (8) of subdivision (a) of Section 13352. The court shall
25 require the person to surrender the driver's license to the court in
26 accordance with Section 13550.

27 (c) If a person is convicted under subdivision (b), and the person
28 was previously convicted of four or more separate violations of
29 Section 23103, as specified in Section 23103.5, or Section 23152
30 or 23153, or any combination of these violations, that resulted in
31 convictions, that person shall, in addition and consecutive to the
32 sentences imposed under subdivision (b), be punished by an
33 additional term of imprisonment in the state prison for three years.

34 The enhancement allegation provided in this subdivision shall
35 be pleaded and proved as provided by law.

36 (d) A person convicted of Section 23153 punishable under this
37 section shall be designated as a habitual traffic offender for a period
38 of three years, subsequent to the conviction. The person shall be
39 advised of this designation pursuant to subdivision (b) of Section
40 13350.

(e) A person confined in state prison under this section shall be ordered by the court to participate in an alcohol or drug program, or both, that is available at the prison during the person's confinement. Completion of an alcohol or drug program under this section does not meet the program completion requirement of paragraph (8) of subdivision (a) of Section 13352, unless the drug or alcohol program is licensed under Section 11836 of the Health and Safety Code, or is a program specified in Section 8001 of the Penal Code.

~~SEC. 8.~~

SEC. 10. Section 23595 is added to the Vehicle Code, to read:
23595. (a) Notwithstanding Sections 13202.5, 13203, and 13352, a court may order the permanent revocation of the driver's license of a person who was previously convicted of three or more separate violations of Section 23152 or 23153. When making this order, the court shall consider all of the following:

(1) The degree of bodily injury caused by the person's previous violations that resulted in a conviction.

(2) The period of time that has elapsed since the person's previous convictions.

(3) The person's blood-alcohol level at the time of each violation.

(4) The person's past and future participation in an alcohol treatment program in an effort to rehabilitate himself or herself.

(5) The person's overall risk to traffic or public safety.

(b) Notwithstanding Sections 13202.5, 13203, and 13352, a court shall order the permanent revocation of the driver's licence of a person who was previously convicted of five or more separate violations of Section 23152 or 23153.

(c) A person whose driver's license was permanently revoked by a court because of three or four separate violations of Section 23152 or 23153, may apply to the department for the reinstatement of his or her privilege to drive after a period of three years from the date of his or her last conviction, if he or she completes all of the following:

(1) Successfully passes the written test for the license classification.

(2) Successfully passes the driving test for the license classification.

1 (3) An 18-month driving-under-the-influence program licensed
2 pursuant to Section 11836 of the Health and Safety Code, as
3 described in subdivision (b) of Section 23568 or, if available in
4 the county of the person's residence or employment, a 30-month
5 driving-under-the-influence program licensed pursuant to Section
6 11836 of the Health and Safety Code, or a program specified in
7 Section 8001 of the Penal Code.

8 (d) A person whose driver's license has been permanently
9 revoked under subdivision (b) of this section shall not be eligible
10 for a restricted driver's license under this code.

11 (e) A person whose driver's license has been permanently
12 revoked by the court under this section shall forfeit his or her
13 vehicle to the state if he or she is the registered owner of the vehicle
14 and holds title to the vehicle.

15 (1) If the person is the coregistrant or cotitle owner of the
16 vehicle, he or she shall forfeit all interest in the vehicle, and the
17 vehicle shall be released to the coregistrant or the cotitle owner,
18 provided that the vehicle is reregistered in the other person's name.

19 (2) If there is no coregistrant or cotitle owner, then the vehicle
20 shall be released to the person or entity that holds legal title
21 pursuant to subdivision (b) of Section 23592.

22 (f) A person whose driver's license is permanently revoked by
23 the court under this section shall be prohibited from registering or
24 owning a vehicle in this state and no person in this state shall sell,
25 lease, or lend a vehicle to any person whose license has been
26 permanently revoked by the court under this section.

27 (g) The Department of Motor Vehicles shall establish a database
28 of persons whose driver's license has been permanently revoked
29 by a court under this section.

30 (h) Upon receipt of a duly certified abstract of the record of the
31 court showing that the court has ordered permanent revocation of
32 a driver's license pursuant to this section, the department shall
33 permanently revoke the person's driver's license.